

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:)	Docket HWCA Docket No.
)	HWCA SRPD05/06 SAE0-4346
Spirito Family Trust)	
1801 South Myrtle Avenue)	IMMINENT AND SUBSTANTIAL
Suite H)	ENDANGERMENT DETERMINATION
Monrovia, California 91016)	AND ORDER
)	
Respondent.)	Health and Safety Code
)	Section 25187

INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) issues this Imminent and Substantial Endangerment Determination and Order (Order) to the Spirito Family Trust (Respondent).

1.2. Site. Respondent is the owner of the property located at 4057 Goodwin Ave., Los Angeles, CA 90039-4800, EPA ID# CAD009545153 (Site). A map of the Site is attached as Attachment A.

1.3. Permit/Interim Status. Respondent leased the property to Excello Plating, Inc. (Excello). Excello is a plating facility and part of its operations generate various hazardous waste streams including cyanide, chromium, cadmium, copper, nickel, corrosive, ignitable, volatile and semi-volatile organic compounds (See lab results in Attachment B).

1.4. Jurisdiction. Section 25187(a)(1) of the Health and Safety Code (HSC) authorizes the Department to order an action necessary to correct violations and assess a penalty whenever the Department determines that any person has violated

specified provisions of the HSC or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto. HSC section 25187(h) authorizes the Department to issue an Order that takes effect upon issuance if the Department finds that the violations identified in the Order may pose an imminent and substantial endangerment to the public health or safety or the environment.

FINDINGS OF FACT

2.1. On June 2, 2005, the Regional Water Quality Control Board, Region 4 (RWQCB) issued a revised Cleanup and Abatement Order No. R4-2003-0038-R (File No. 113.5243), directing the Spirito Family Trust and Excello to assess, cleanup, and abate the effects of wastes discharged to soil and groundwater at the site. The basis of the RWQCB order is that Excello has allowed contamination from its operations to enter the groundwater of the City of Glendale. (See RWQCB order in Attachment C).

2.2. On August 25, 2005, a multi-agency investigation was conducted by the RWQCB, United States Environmental Protection Agency (USEPA), and the Department's Emergency Response, Criminal Investigations, and Statewide Compliance Branches. The site investigation revealed that Excello had abandoned the facility and the hazardous waste (identified below) had been stored at the facility since December 2004. The Department's employees also observed crystallized material on the floor adjacent to tanks containing hazardous waste and

crystallized hazardous waste constituents. This crystallization is attributed to the release of hazardous liquids onto the floor that later evaporated. Samples taken by DTSC revealed hazardous levels of Chromium, Cadmium, Nickel, Copper, Cyanide and acid at the site located in and around the former process tanks. (See lab results in Attachment B).

2.3. The Site is situated in a primarily mixed "residential" and "light industrial" area with an approximate population of 6504 persons in a half mile radius (Environmental Justice Geographic Assessment Tool, United States Environmental Protection Agency).

DETERMINATION OF VIOLATIONS AND
IMMINENT AND SUBSTANTIAL ENDANGERMENT

3.1. The Department has determined that:

3.2. The Respondent violated HSC section 25201(a), in that Excello abandoned the Site and left all the plating lines and plating bath solutions, hazardous waste in drums, open baths, and tanks at the Site and that the Respondent stored numerous types of hazardous waste in excess of nine months without a permit or other grant of authorization from the Department.

3.3. The Department has further determined that the foregoing violation of the Health and Safety Code poses an imminent and substantial endangerment to the public health and safety or the environment because there are residential, commercial and industrial developments nearby.

3.4. There has been a release on the Site of Chromium, Copper, Cyanide, Chromic Acid and Nickel, which are considered

hazardous substances pursuant to Health and Safety Code section 25316. During a preliminary investigation of the Site, Department personnel observed crystallized material on the floor adjacent to tanks containing the some of the above-mentioned hazardous substances. The crystallized material observed at the Site is attributed to the release of hazardous liquids that further evaporated.

3.5. The Site and the chemicals at the Site pose a public health risk should human contact occur with the hazardous substances or surrounding contaminated area. These substances and their attendant risks to human health are as follows:

Chromium: has been shown to damage the kidney, nervous system and circulatory system of laboratory animals such as rats and mice when exposed at high levels. Humans exposed to high levels of this chemical suffered liver and kidney damage, dermatitis and respiratory problems.

Copper: at high doses has been shown to cause stomach and intestinal distress, liver and kidney damage and anemia.

Cyanide: has been shown to damage the spleen, brain and liver of humans.

Chromic Acid: contact to skin causes burning and destruction of skin tissue.

Nickel: has been shown to damage the heart and liver in laboratory animals when the animals are exposed to high levels.

3.6 In the event of an earthquake or other "upset" conditions, the open tanks of strong acids, (as low as 0.19 pH) and cyanide solutions may co-mingle creating toxic clouds of hydrogen cyanide, which could leave the property boundary and have an adverse health impact on the nearby residents.

3.7 The City of Glendale Treatment Plant extraction well GS-3 is located approximately 20 feet south-southwest of the facility on Goodwin Avenue. Evidence, provided in the RWQCB's report, suggests that hazardous waste is leaving the site and impacting the local aquifer, and that further releases would be detrimental to the environment.

SCHEDULE FOR COMPLIANCE

4. Based on the foregoing Determination Of Violation and Imminent and Substantial Endangerment Determination, IT IS HEREBY ORDERED THAT:

4.1. Immediately upon the date of issuance of this Order, Respondent shall place covers on all containers and tanks known to contain or which may contain hazardous waste or hazardous waste constituents. These covers shall be maintained at all times by Respondent to prevent any release of hazardous waste or hazardous waste constituents into the environment. Respondent must ensure that the Site is secure and inaccessible pursuant to the terms of the Fence and Post order dated September 16, 2005, issued by the Department.

4.2. Within 30 days of the effective date of this Order, Respondent shall submit to the Department for its review

and approval, a workplan to remove and dispose of all aboveground hazardous waste/material currently stored at the site. Within 10 days of the Department's approval of the Workplan the Respondent shall begin implementation of the Workplan. Pursuant to HSC section 25187.2, Respondent shall reimburse the Department for the Department's costs incurred in overseeing the work required by this Order.

OTHER PROVISIONS

5.1. Submittals. All submittals from Respondent pursuant to this Order shall be sent simultaneously to:

Stephen W. Lavinger, Chief
Tiered Permitting and Corrective Action Branch
Hazardous Waste Management Program
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

and

Nirupma Suryavanshi, Project Manager
Tiered Permitting and Corrective Action Branch
Hazardous Waste Management Program
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

5.2. Communications. All approvals and decisions of the Department made regarding submittals and notifications will be communicated to Respondent in writing by the Hazardous Waste Management Programs Tiered Permitting and Corrective Action Branch Chief, Stephen W. Lavinger, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of the obligation to obtain such formal approvals as may be required.

5.3. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

a. Modify the document as it deems necessary and approve the document as modified, or

b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

5.4. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

5.5. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating a further imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of the Stop Work Order.

5.6. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

5.7. Site Access: Access to the site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

5.8. Data and Document Availability. Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other

data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either, comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

5.9. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to the Order.

5.10. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated

in this Order upon approval by the Department.

5.11. Extension Request: If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing.

The extension request shall include a justification for the delay.

5.12. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

5.13. Additional Enforcement Actions: By issuance of this Order, the Department does not waive the right to take further enforcement actions.

5.14. Penalties for Noncompliance: Failure to comply with the terms of this Order may also subject Respondent to costs, penalties, and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by HSC section 25188 and other applicable provisions of law.

5.15. Parties Bound: This Order shall apply to and be binding upon Respondent, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations.

5.16. Time Periods. "Days" for purposes of this Order means calendar days.

PENALTY

6. The Department is not assessing a penalty at this time in conjunction with this Order. The Department reserves all its rights to impose any fines, penalties, or other assessments by all lawful means and to take any other actions or pursue any other remedies available.

RIGHT TO A HEARING

7. Respondent may request a hearing to challenge the Order. Appeal procedures are described in the attached Statement to Respondent. Under HSC section 25187, a request for a hearing shall not stay the effect of this Order.

EFFECTIVE DATE

8. Pursuant to HSC section 25187,(h) this Order is effective immediately on the date of issuance indicated below. As stated in Section 4 of this Order, the Department finds that the violation described in Section 3 of this Order may pose an imminent and substantial endangerment to the public health or safety or the environment.

Date of Issuance: October 7, 2005

____//Original signed by//____

Stephen W. Lavinger, Chief
Tiered Permitting
Corrective Action Branch
Hazardous Waste Management Program
Department of Toxic Substances Control